

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

MICHAEL AND SHELLIE GILMOR, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 4:10-cv-00189-ODS
	)	
PREFERRED CREDIT CORPORATION, <i>et al.</i> ,	)	
	)	
Defendants.	)	
	)	

**SUGGESTIONS IN RESPONSE TO MOTION TO WITHDRAW  
FILED BY SPENCER, FANE, BRITT & BROWNE LLP**

Defendants Impac Mortgage Holdings, Inc., Impac Funding Corporation, Impac Secured Assets Corp., and IMH Assets Corp. (“Impac Defendants”), through undersigned counsel admitted *pro hac vice*, respectfully submit these suggestions in response to the motion to withdraw as counsel filed by Spencer, Fane, Britt & Browne LLP (“Spencer Fane”).

1. Spencer Fane has served as counsel to numerous defendants in this matter, including the Impac Defendants. Spencer Fane represented the Impac Defendants and others prior to the removal of this action to federal court on February 26, 2010, and its representation has continued at all times since.

2. Undersigned counsel has served as *pro hac vice* counsel in this matter, representing the Impac Defendants, for many years. At all times undersigned counsel has been co-counsel with Spencer Fane, working principally with Barry L. Pickens. Undersigned counsel’s representation of the Impac Defendants began while associated with the firm now known as K&L Gates, and continued thereafter, including since early 2007, when undersigned

counsel joined Ballard Spahr LLP. At all times since early 2007, Ballard Spahr and Spencer Fane have served as co-counsel in this matter for the Impac Defendants.

3. On October 31, 2012, counsel for Plaintiffs filed a motion requesting preliminary approval of a settlement agreement reached through mediation between Plaintiffs and the Impac Defendants. The Court entered an order on November 5, 2012, preliminarily approving the parties' settlement agreement. The preliminary approval order sets a number of milestones over the coming weeks, including a fairness hearing on March 6, 2013. Undersigned counsel expects to continue representing the Impac Defendants for all purposes in this matter, including at the fairness hearing.

4. Local Rule 83.5(l) allows visiting attorneys, such as the undersigned, to participate in matters before this Court on a *pro hac vice* basis. The local rule requires visiting attorneys to associate with "an active Missouri resident member in good standing of the Bar" of this Court.

5. The Impac Defendants have no objection to Spencer Fane's motion to withdraw. The Impac Defendants respectfully request, however, that they be excused from the requirements of Local Rule 83.5(l) and be permitted to be represented in this matter by undersigned counsel, without any associated Missouri counsel, through the fairness hearing. Because the parties have reached a settlement agreement, the Impac Defendants respectfully submit that little if any work would need to be performed by substitute local counsel. Such work, which the Impac Defendants reasonably expect will be able to be performed by the undersigned, would not justify the expense associated with getting a new attorney sufficiently familiar with the case to participate adequately. The Impac Defendants further suggest that, in the event that new issues

arise that indicate a greater degree of involvement will be necessary, the Impac Defendants could obtain representation by a Missouri attorney at that time.

6. The Impac Defendants have consulted with counsel for Plaintiffs. Plaintiffs consent to the relief sought herein.

Respectfully submitted,

November 9, 2012

/s/ Daniel J. Tobin  
Daniel J. Tobin, Esq. (admitted *pro hac vice*)  
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*Attorneys for Defendants Impac Mortgage  
Holdings, Inc., Impac Funding Corporation, Impac  
Secured Assets Corp., and IMH Assets Corp.*

### **CERTIFICATE OF SERVICE**

I hereby certify that on November 9, 2012, the foregoing was filed using the Court's CM/ECF system, which will notify all registered parties of the filing.

/s/ Daniel J. Tobin

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